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Community Based Restorative Justice Projects and State Agencies

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This briefing paper examines the extent to which the work of Community Based Restorative Justice (CBRJ) projects may be shaped by the funding available to these projects, the protocol and the relationships between CBRJ projects and state agencies. This paper is based on research findings emerging from Lauren's Hogg's PhD research, examining the impact of state Intervention on the work of CBRJ projects in Northern Ireland, and forthcoming academic publications by Lauren Hogg and Dr Michelle Butler.

1 Funding

Since the introduction of the protocol, CBRJ projects have been eligible to apply for state funding, subject to state accreditation and adherence to the protocol. State accreditation and adherence to the protocol appeared to legitimate the work of CBRJ projects amongst state agencies and provide reassurance regarding the appropriateness of funding such projects.

During the research, primary funding was provided by the Department of Social Development (DSD), with the Department of Justice (DOJ) providing a smaller proportion of funding for the central offices of CBRJ projects. As primary funder, the DSD played a dominant role in setting targets, objectives and outcomes for the work of CBRJ projects, along with the needs of local communities.

In particular, DSD fund CBRJ projects to engage in crime prevention, youth work, diversion and community safety as opposed to more traditional restorative justice work, such as victim-offender mediation, family group conferencing or sentencing circles. However, CBRJ projects take a restorative approach to all aspects of their work, attempting to restore relationships and repair harm in all their dealings with community members.

While state funding was welcomed, a number of issues were identified during the research:

The targets set by funders played an important role in shaping the work undertaken by CBRJ projects, along with the needs of local communities. However, at the time of the research, the activities which CBRJ projects received funding for frequently did not include traditional restorative justice work.

The short term, piecemeal provision of funding appeared to reduce the ability of CBRJ projects to build capacity, retain highly skilled staff and sustain work within communities.

The substantial paperwork associated with small funding awards placed a significant drain on resources, reducing the time available for projects to work within communities.

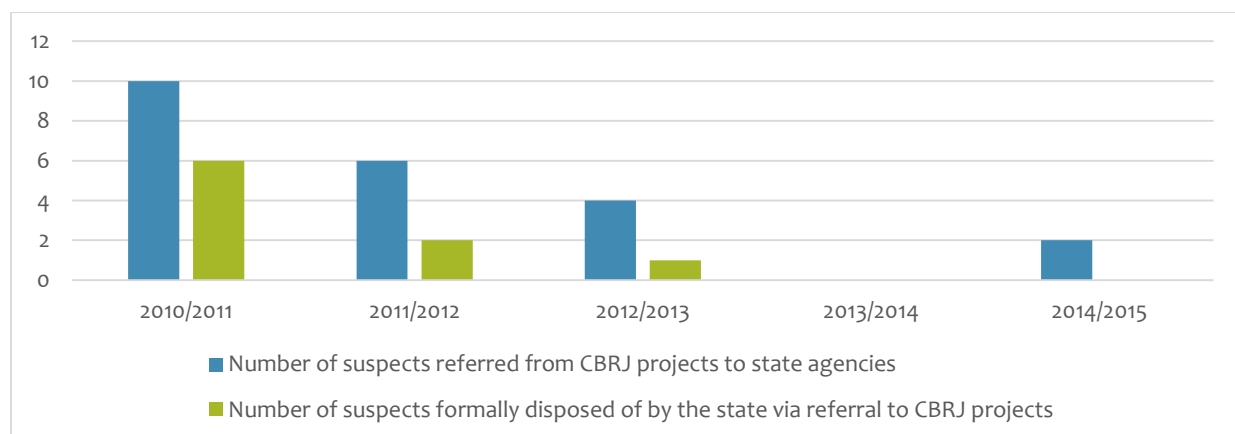
State funding involves an element of control, whereby CBRJ projects must adhere to state criteria in order to continue to receive state funding. In particular, CBRJ projects were expected to adhere to a protocol, introduced by the state, which was considered by some to have potential negative consequences for community relationships and constrain CBRJ projects interactions with communities.

2 The Protocol

The protocol put in place a formal process by which CBRJ projects and state agencies could share information and work together to reduce criminal behaviour. As part of the protocol, CBRJ projects were required to report all criminal activity to the state, with the state referring suitable cases back to CBRJ projects to deal with as a formal disposal available as part of the official criminal justice system. This represented a significant change in policy as prior to the introduction of the protocol, CBRJ projects were not viewed as a part of the criminal justice system and were not required by the state to report all criminal behaviour to state agencies.

In practice, however, the protocol has not worked as envisaged, as both the state and CBRJ projects have not made many referrals under the protocol to each other, with the number of referrals diminishing in more recent years (see table 1).

Table 1: Referrals under the Protocol 2010-2015



A number of concerns about the protocol emerged during the research:

The protocol required closer working relationship between CBRJ projects and state agencies, which some felt dissuaded some community sectors from approaching CBRJ projects for assistance due to ongoing perceptions of state illegitimacy and distrust.

The expectation that all criminal behaviour would be reported to the state by CBRJ projects was also believed to act as a deterrent from CBRJ project engagement as some did not want their victimisation and/or criminal activity reported to the state.

As a result, the requirements of the protocol were believed to restrict the ability of CBRJ projects to resolve some issues within communities, due to the reluctance by some to engage with CBRJ projects owing to the potential involvement of the state.

The extent to which the protocol adequately addressed concerns around paramilitary activity and threats was also questioned. Concerns were expressed about the ability of the state to deal with such cases in a timely manner and the state's appreciation for the potential costs reporting such behaviour involved for victims, and CBRJ project staff, living and working in communities in which paramilitary activity was prominent.

Further, the development of other criminal justice system disposals and alternatives to prosecution, since the introduction of the protocol, was offered as an explanation for the reduction in the number of state referrals under the protocol to CBRJ projects. However, the research findings indicated that while this was a factor, other variables may also be at play and these are explored next.

3 Relationships

The mutual cooperation and formalised process of sharing information that accompanied the introduction of the protocol was largely welcomed. Across both Catholic and Protestant communities, it was mostly felt that, despite the reluctance by some to engage with CBRJ projects because of their cooperation with the state, the increased interaction and information sharing arising from the protocol benefitted communities by helping to resolve disputes, tackle inappropriate behaviour, assist victims and reduce crime.

Particularly positive working relationships, based on knowledge, trust and understanding of each other's roles were noted between CBRJ projects and community police. These relationships appeared to arise from their knowledge and familiarity with each other due to working in close proximity to each other and trust in each other's professionalism. However, more critical and less informative and knowledgeable relationships were also present between state agencies and CBRJ projects, especially

as their interaction with each other diminished. This appeared to affect the referral process under the protocol as the following issues became visible during the research:

State officials did not always appear knowledgeable about the activities of CBRJ projects and/or the protocol, influencing their engagement with CBRJ projects and use of the protocol.

The strengths and weaknesses of a CBRJ disposal over other criminal justice system disposal methods did not always appear well understood and, in such circumstances, there seemed to be a tendency to lean towards other disposal methods which were administered and overseen by the state rather than CBRJ projects.

Questions regarding the ownership of justice and competition were also evident. Questions regarding who should have responsibility for responding to crime and victimisation were raised, with a desire by CBRJ projects to be involved in more traditional restorative justice processes sometimes competing with similar processes organised and administered by the state. In such situations, there appeared to be a reluctance to make referrals to CBRJ projects when such work could be undertaken by state agencies. Instead, a desire was expressed by some state officials that CBRJ projects would undertake work that complemented the work of state agencies rather than competing with it. This was noticed by CBRJ projects and may explain the small amount of referrals from CBRJ projects to state agencies under the protocol. The decreasing referrals from state agencies to CBRJ projects and from CBRJ projects to state agencies under the protocol can be observed in Table 1. In this way, the state may retain its ownership over the administration of justice but risk minimising the potential contribution that the inclusion of community organisations can make to improving the operation of the criminal justice system and legitimising the administration of justice.

There are also some limitations to the relationships between CBRJ projects and communities as the level of engagement with CBRJ projects appeared to vary depending on a range of factors, such as age, socioeconomic status, ethnicity and perceived paramilitary affiliation. While CBRJ projects attempted to ensure that they are inclusive in their dealings with community members, individuals may nonetheless choose not to engage with CBRJ projects for a variety of reasons and despite the best efforts of CBRJ projects.

In addition, relationships between CBRJ projects and paramilitary organisations varied across time and location, affecting the extent to which CBRJ projects could provide an alternative to paramilitary violence and help minimise the negative consequences of paramilitary behaviour on communities.

Accordingly, the research suggested that more thought may need to be given to the following issues:

The ability of CBRJ projects to challenge paramilitary activity and act as an alternative to paramilitary violence, when paramilitary organisations are unwilling to cooperate with CBRJ projects.

How the requirement to report all criminal behaviour to the state may place victims and CBRJ project staff at risk of paramilitary intimidation and retaliation.

The adequacy of existing processes in place to ensure the safety of community members and CBRJ project staff from paramilitary intimidation or retaliation.

How the needs and issues of community members who may be reluctant to engage with CBRJ projects will be identified and addressed.

4 Possible Next Steps

Based on this brief synopsis of the findings emerging from Lauren Hogg's PhD research and forthcoming academic publications by Lauren Hogg and Dr Michelle Butler, it is recommended that the protocol, CBRJ funding arrangements and relationships between CBRJ projects, state agencies and communities are reviewed, paying particular attention to the issues outlined below.

- Agreement should be sought between the various state agencies and CBRJ projects regarding what role CBRJ projects should play in the criminal justice system and where they fit within the range of possible criminal justice disposals available. This should help to provide clarity, reassurance and increase awareness amongst state officials about the activities of CBRJ projects, the potential strengths and weakness of CBRJ work and how a CBRJ disposal may differ to other disposals available in the criminal justice system.
- Further, agreement will need to be sought regarding the funding arrangements and performance targets of CBRJ projects. Efforts should be made to review the funding process to streamline it, helping to reducing the loss of skilled staff from CBRJ projects and maximizing their capacity to engage in community work. Such a review may also help to provide a clearer alignment between the needs of local communities, what work state agencies expect CBRJ projects to undertake, what work CBRJ projects are funded to partake in and the performance targets set by funders for CBRJ projects. For example, if CBRJ projects are given a remit to engage in more traditional restorative justice work, how will this work be funded given existing funding arrangements and performance targets?
- Consultations should be held with communities directly, as well as with CBRJ projects, to ensure that the needs and issues affecting those who may be reluctant to engage with CBRJ projects and/or community groups that are hard to reach are also identified and addressed.

- The requirement in the protocol that CBRJ projects report all criminal behaviour to the state raises concerns about the ability of the state to ensure the safety of victims and CBRJ project staff from potential retaliation by paramilitary organisations. In addition, it raises concerns that victims who need help may not approach CBRJ projects for fear of the state being notified about the crime. More thought needs to be given to these issues in order to avoid victims and CBRJ project staff being placed in vulnerable positions.
- Lastly, consideration will also need to be given to the role that CBRJ projects can realistically play in tackling paramilitary activity and/or helping to minimise the negative consequences of such behaviour on communities. How this work will align with activities undertaken as part of the Stormont 'Fresh Start' agreement and wider pursuits to address the risk posed by paramilitary organisations will need to be taken into account in these deliberations.